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EDDIE WISE, on Behalf of Himself and Others Similarly
Situated,

Plaintiffs,

-against-

RAYMOND W. KELLY, Commissioner of the New York City Police Department (NYPD); BARRY M. BUZZETTI, Captain and Commanding Officers, NYPD 48th Precinct; JOHN/JANE DOES 1-50 (NYPD Supervisory, Training, and Police Personnel); CITY OF NEW YORK; Police Officers MICHAEL CURLEY, COREY HARRIS, MIGUEL MUSSE, KEVIN LYNCH, JOHN BRENNAN, JOHN/JANE DOES 51-100 (police officers); ROBERT JOHNSON, District Attorney of Bronx County; and JOHN/JANE DOES 101-125 (Supervisory, Training, and Policy Personnel within the district attorney's offices); JUDITH KAYE, in her capacity as Chief Judge of the State of New York and Chief Judicial Officer of the Unified Court System; JONATHAN LIPPMAN, in his official capacity as Director of Criminal Justice and Commissioner of the New York State Division of Criminal Justice Services ("DCJS"),

Defendants.

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STIPULATION AND ORDER

05 Civ 5442(SAS)

JUN 23 2005

IT IS HEREBY STIPULATED AND AGREED, upon the district court's full and complete review of the terms of the Stipulation, by and between the defendants Raymond W. Kelly, Commissioner of the New York City Police Department; City of New York; and Robert Johnson, District Attorney of Bronx County, (hereinafter "City Defendants"), and Plaintiff Eddie Wise, and without prejudice to plaintiff's right to seek further injunctive relief:

1. The City of New York, Robert Johnson, and their respective employees shall cease enforcement of New York Penal Law § 240.35(1).

2. On June 9, 2005, City Defendants sent immediate notices to all NYPD precincts and commands and to their respective employees that New York Penal Law § 240.35(1) is void and unenforceable.

3. Additionally, on June 10, 2005, a FINEST message was sent to all NYPD precincts reminding them that New York Penal Law § 240.35 (1) is unconstitutional and directing members of the service not to enforce it. A copy of the June 10, 2005 FINEST message is annexed hereto and made a part hereof as Exhibit "A."

4. To insure that all members of the service were made aware of the FINEST message, the message was read at 10 consecutive roll calls which are conducted at the time officers report for duty at the start of their assigned tour.

5. On June 9, 2005, notification was sent to the Chief of the Criminal Bureau and Deputy Chief of the Complaint Room of the Bronx District Attorney's Office.

6. Notification in the form annexed hereto as Exhibit "B" will be sent to all Assistant District Attorneys in the Office of the District Attorney of Bronx County informing them that New York Penal Law § 240.35(1) is void and unenforceable.

7. Notification in the form annexed hereto as Exhibit "C" was sent to the Offices of the District Attorneys of Queens, New York, Richmond, and King Counties informing them that New York Penal Law § 240.35(1) is void and unenforceable.

8. Robert Johnson shall seek to dismiss any and all charges and summonses pending solely under Penal Law § 240.35(1) including conditional discharges and violations thereof related to prior charges and/or convictions solely under Penal Law § 240.35(1); City Defendants shall immediately release from custody anyone held solely on the charge of violating Penal Law § 240.35(1) or, on a charge of violating the terms of a conditional discharge relating solely to § 240.35(1); and City Defendants shall immediately seek to vacate all warrants relating to charges or summonses solely for Penal Law § 240.35(1).

9. The Court shall retain jurisdiction over the Stipulation and Order for enforcement

purposes and to ensure compliance with its terms.

Dated: New York, New York
June 22, 2005

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By: Katherine Rosenfeld
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Matthew D. Brinckerhoff (3552)

Dated: New York, New York
June 22, 2005

BRONX DEFENDERS
J. McGregor Smyth (9995)

Dated: New York, New York
June 22, 2005

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By: Rachel A. Seligman
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SO ORDERED:

Hon. Shira A. Scheindlin
Dated: June 23, 2005